

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : Crim. No. 08-cr-380

v.
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RICARDO WASHINGTON : Judge Sylvia H. Rambo

M E M O R A N D U M

Before the court is a motion for a reduction of sentence filed by Ricardo Washington. (Doc. 56.) He cites to *United States v. Holloway*, 68 F. Supp. 3d 310 (E.D.N.Y. 2014), as the basis of his motion.

The *Holloway* case involved the theft of three cars in a two-day span. Each carjacking count was accompanied by a “924(c) count.” *Id.* at 312. Holloway went to trial and was found guilty of all counts. *Id.* Under the guidelines then in effect (1995), the sentence that was imposed amounted to a prison term of 57 years and seven months. *Id.*

In 2012, Holloway filed a motion to reopen his § 2255 proceeding under Federal Rule of Civil Procedure 60(b). The judge, “[r]ecognizing that there were good reasons to revisit Holloway’s excessive sentence but no legal avenues or bases for vacating it, [] issued an order . . . request[ing] that the United States Attorney consider exercising her discretion to agree to an order vacating two or more of Holloway’s 18 U.S.C. § 924(c) convictions.” *Id.* at 314. Eventually, two counts were vacated without opposition by the government, and the judge praised

the government for doing justice in the case. *Id.* at 315-16. It is noted that the judge could only have resentenced Holloway in the manner it did with the government's cooperation.

Here, Washington seeks to have this court follow the *Holloway* court. For the reasons stated below, this court will deny Washington's motion.

I. Discussion

Washington was initially indicted for the following offenses: Count I – possessing, carrying, and using a firearm during and in relation to a drug trafficking offense, in violation of 18 U.S.C. § 924(c); Count II – possessing with the intent to distribute cocaine base, in violation of 18 U.S.C. § 841(a)(1); and Count III – possessing a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g)(1). (Doc. 1.)

On May 21, 2009, pursuant to a plea agreement, Washington pleaded guilty to a two-count superseding information. The information dropped the charge contained in Count I of the indictment.

Because Washington was determined to be a career offender, his total offense level was calculated as 31, after receiving a three point deduction for acceptance of responsibility. His criminal history category was a level VI. This gave him a guideline range of 188 to 210 months imprisonment. On September

16, 2009, this court imposed a sentence of 168 months to avoid any unwarranted disparity among defendants.

Washington's case is a far cry from the *Holloway* case. Washington received the benefit of a plea agreement and a superseding information. Without them he was exposed to a potential guideline sentence of 262 to 327 months. He received the benefit of a three point reduction for acceptance of responsibility and a variance by this court. None of these benefits were received by Holloway.

The offense committed by Washington was his third conviction for drug trafficking, his third conviction for illegally possessing a firearm, and his second conviction for carrying a firearm while drug trafficking. Furthermore, Washington committed the offenses in the captioned matter while he was on parole and less than two years after his release from prison on a conviction in a county case. At the time of his sentencing, Washington was considered to be undeterred by prior punishment, posed a high likelihood of recidivism, and was a danger to the public. Justice was done by the sentence which Washington received. This court will not request the United States to acquiesce to this court imposing a lesser sentence. An appropriate order will issue.

s/Sylvia H. Rambo

SYLVIA H. RAMBO

United States District Judge

Dated: January 25, 2016